

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

U.S. DISTRICT COURT
OFFICE

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FILED

Court

JUAN DAVILA-BAJANA,

PLAINTIFF,

-VS-

TIM HOLOHAN, ET AL.,

DEFENDANT.

CIVIL ACTION NO. 04-253E

JUDGE: SEAN J. MCLAUGHLIN
MAGISTRATE JUDGE: BAXTER

MOTION AND BRIEF FOR ENLARGEMENT OF TIME TO FILE
RESPONSE TO SECOND MOTION TO DISMISS / SUMMARY JUDGEMENT
AND WITNESSES' NARRATIVES AND EXHIBIT LIST

NOW COMES Juan Davila-Bajana, Pro Se (Plaintiff); and hereby respectfully submits his Motion and Brief seeking the Court to Grant him an Enlargement of Time to File his Response to the pending Defendants' Second Motion to Dismiss, or in the alternative, Summary Judgement; and his Witnesses' Narratives and Exhibit List.

JURISDICTION

Plaintiff respectfully directs the Court to Federal Rules of Civil Procedure, Rule 6(b). As same has been set forth in his previously filed Motions for Enlargements, and the Court familiarity with the Federal Rules, Plaintiff does not insert it.

PROCEDURAL BACKGROUND

Plaintiff had received the above referenced Second Motion to Dismiss by the Defendants' and then received, on or about December 18, 2006, the Memorandum of Law in Support thereof. So Plaintiff's Response is due to be filed on or about January 8, 2007.

Plaintiff timely files this Motion for Enlargement of Time to file said Response. See: Certificate of Service, *infra*.

DISCUSSION

As a general matter, Plaintiff has had difficulty in being able to patronize the prison law library as much as normally would be the case. This is as the holidays is causing the library to be on a reduced schedule so it is not open as much as normally.

Also, the staff have been providing numerous additional activities and so forth for the inmates; like "coffee-hours" the distributing of Christmas Gift Bags and so forth. This is also cause for the institution to be "recalled" and for the inmates to be restricted to the housing units. Plus the holiday meals were extremely long and required extra going to the dining hall to pick up the meals.

Notwithstanding the fact that the Defendants' have now raised a completely new and novel ground for the barring of Plaintiff's action. To wit, the Defendants' now base Plaintiff's removal from his FPI employment on a completely different reason than that understood, and argued to this point, by Plaintiff Davila. This is requiring Plaintiff to do a great deal of additional research and reviewing of his materials.

Especially as the Defendants have provided Plaintiff with an initial Discovery Response of some 2000 pages. (Maybe more). And the Memorandum of Law supporting the Second Motion to Dismiss itself, with Attachments and Exhibits, is probably some 1500 pages. (Estimated by appearances). This took up a great deal of Plaintiff's time to review these documents; and actually he actually deems that he will be making a Second Discovery Request on the Defendants shortly.

WHEREFORE PLAINTIFF PRAYS, that the Court will Grant him an Extension to File his Response to and including January 12, 2007. Or four (4) days to finish preparing the actual document he has researched.

AND FURTHERMORE, Grant him an additional week (seven (7) days) to File his Witnesses' Narratives and Exhibit List in order to incorporate the Discovery, Attachments to Motion to Dismiss (with Exhibits), and additional materials; or to and including January 19, 2007.

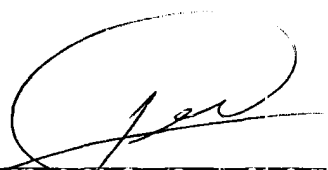
AND FURTHERMORE, any additional Relief the Courts deems just and proper.

Respectfully Submitted,

DECLARATION AND CERTIFICATE OF SERVICE

I, Juan Davila-Bajana, hereby declare and affirm, under the penalty of perjury pursuant to 28 U.S.C. §1746(2), that the foregoing pleading is true and correct; and has been served by first-class postage prepaid surrender to the prison officials, this 8th day of January, 2007, to:

1. Paul D. Kovac, AUSA
700 Grant St., Ste. 400
Pittsburgh, PA 15219



Juan Davila-Bajana, Pro Se
FCI McKean, Box 8000
Bradford, PA 16701